

John Y. Bonds, III  
State Bar I.D. No. 02589100  
Clay M. Taylor  
State Bar I.D. No. 24033261  
Bryan C. Assink  
State Bar I.D. No. 24089009  
BONDS ELLIS EPPICH SCHAFFER JONES LLP  
420 Throckmorton Street, Suite 1000  
Fort Worth, Texas 76102  
(817) 405-6900 telephone  
(817) 405-6902 facsimile

Deborah Deitsch-Perez  
State Bar No. 24036072  
Michael P. Aigen  
State Bar No. 24012196  
STINSON LLP  
3102 Oak Lawn Avenue, Suite 777  
Dallas, Texas 75219  
(214) 560-2201 telephone  
(214) 560-2203 facsimile

**ATTORNEYS FOR DEFENDANT JAMES DONDERO**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>In re:</b>	§	<b>Case No. 19-34054</b>
	§	
<b>HIGHLAND CAPITAL MANAGEMENT, L.P.</b>	§	<b>Chapter 11</b>
	§	
<b>Debtor.</b>	§	

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<b>HIGHLAND CAPITAL MANAGEMENT, L.P.,</b>	§	
	§	
<b>Plaintiff.</b>	§	
	§	
<b>v.</b>	§	<b>Adversary No. 21-03003-sgj</b>
	§	
<b>JAMES D. DONDERO,</b>	§	
	§	
<b>Defendant.</b>	§	

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**EMERGENCY MOTION TO EXPEDITE THE HEARING ON THE MOTION TO  
COMPEL DEPOSITION TESTIMONY FROM JAMES P. SEERY, JR.**

Pursuant to 11 U.S.C. § 105, James D. Dondero (“Dondero”), the Defendant in the above-captioned adversary proceeding, by and through his counsel, hereby files this Emergency Motion to Expedite the Hearing on the Motion to Compel Deposition Testimony from James P. Seery, Jr. (the “Motion”), with respect to the *Motion to Compel Deposition from James P. Seery, Jr.* (the “Motion to Compel”) and respectfully states as follows:

## **INTRODUCTION**

1. On May 14, 2021, Dondero filed his Motion to Compel. Dondero seeks to compel testimony from Seery relating to certain deposition topics the Debtor objected to in advance of the deposition of Seery on May 24, 2021 at 10:00 a.m. ET (the “Seery Deposition”).

2. By this Motion, the Debtor requests that the court hold a hearing on the Motion to Compel as soon as feasible during the week of May 17, 2021.

## **RELIEF REQUESTED AND BASIS FOR RELIEF**

3. Section 105(a) of the Bankruptcy Code provides that “the court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Further, Bankruptcy Rule 9006(d) permits a court to fix any period of notice by order. Thus, the court has broad latitude to fix the time for presentment of motions, particularly when “necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

4. For the reasons set forth herein and in the underlying Motion, good cause exists to consider the Motion on an immediate basis and schedule an emergency hearing for as soon as possible (preferably during the week of May 17, 2021 – May 21, 2021), as the court’s schedule allows.

5. As described in the underlying Motion, while the Seery Deposition has not yet occurred, counsel for the Debtor has signaled that Seery will not answer questions relating to certain deposition topics necessary to establish the parties’ claims and defenses in this proceeding.

6. If the Motion to Compel is heard in the ordinary course, Dondero will be unable to compel the testimony of Seery with respect to the deposition topics the Debtor objected to in advance of the Seery Deposition. If, as the Debtor has signaled, Seery does not provide

testimony with respect to the deposition topics the Debtor objected to at the Seery Deposition, the Debtor and Dondero will be unable to comply with the May 28, 2021 deadline for the completion of fact discovery (the “Fact Discovery Deadline”) set by the court’s Amended Scheduling Order entered on April 9, 2021. [ECF No. 18]. Additionally, if Seery does not provide testimony with respect to the deposition topics the Debtor has objected to at the Seery Deposition, Dondero will have only four (4) days to seek to compel Seery to provide testimony the deposition topics the Debtor has objected to prior to the Fact Discovery Deadline. If that occurs, Dondero may again be forced to move to amend the scheduling order to ensure that fact discovery is timely completed and so that Dondero can adequately prepare for trial. Dondero seeks to compel the testimony of Seery prior to the Seery Deposition to avoid unnecessary further delay of this proceeding.

7. Further, on April 30, 2021, Dondero provided the deposition topics to the Debtor. The Debtor did not provide its objections to the deposition topics until May 11, 2021. As such, the Debtor will not be prejudiced if the court sets an expedited hearing on the Motion to Compel, as the Debtor will have had nearly a month since it was provided with the deposition topics to develop its objections thereto.

8. Additionally, on May 14, 2021, the Debtor indicated that it does not oppose the Motion to Compel being heard on an expedited basis, and thus does not oppose this Motion.

### **CONCLUSION**

9. WHEREFORE, for the reasons above, Dondero respectfully requests that the Court enter an order: (1) hearing the Motion to Compel as soon as possible during the week of May 17, 2021 – May 21, 2021; (2) setting the hearing date as the Debtor’s deadline to respond to the Motion to Compel; and (3) granting such further relief as equity and justice requires.

Dated: May 14, 2021

Respectfully submitted,

/s/ Bryan C. Assink

John Y. Bonds, III  
State Bar I.D. No. 02589100  
Clay M. Taylor  
State Bar I.D. No. 24033261  
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State Bar I.D. No. 24089009  
BONDS ELLIS EPPICH SCHAFFER JONES  
LLP  
420 Throckmorton Street, Suite 1000  
Fort Worth, Texas 76102  
(817) 405-6900 telephone  
(817) 405-6902 facsimile  
Email: john@bondsellis.com  
Email: clay.taylor@bondsellis.com  
Email: bryan.assink@bondsellis.com

-and-

Deborah Deitsch-Perez  
State Bar No. 24036072  
Michael P. Aigen  
State Bar No. 24012196  
STINSON LLP  
3102 Oak Lawn Avenue, Suite 777  
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(214) 560-2201 telephone  
(214) 560-2203 facsimile  
Email:  
deborah.deitschperez@stinson.com  
Email: michael.aigen@stinson.com

**ATTORNEYS FOR DEFENDANT  
JAMES DONDERO**

**CERTIFICATE OF CONFERENCE**

I, the undersigned, hereby certify that I have conferred with counsel for the Plaintiff, John Morris, regarding the matters and relief requested in this motion on May 14, 2021. Mr. Morris indicated that the Plaintiff does not oppose this motion to expedite. This motion is unopposed.

/s/ Michael P. Aigen  
Michael P. Aigen

**CERTIFICATE OF SERVICE**

The undersigned hereby certified that, on May 14, 2021, a true and correct copy of this document was served via the Court's CM/ECF system on counsel for the Plaintiff.

/s/ Bryan C. Assink  
Bryan C. Assink